

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CLYDE RAY SPENCER, MATTHEW RAY  
SPENCER, and KATHRYN E. TETZ,

Plaintiffs,

vs.

No. 3:11-cv-05424-BHS

FORMER PROSECUTING ATTORNEY FOR  
CLARK COUNTY JAMES J. PETERS,  
DETECTIVE SHARON KRAUSE,  
SERGEANT MICHAEL DAVIDSON,  
CLARK COUNTY PROSECUTOR'S  
OFFICE, CLARK COUNTY SHERIFF'S  
OFFICE, THE COUNTY OF CLARK and  
JOHN DOES ONE THROUGH TEN,

Defendants.

DEPOSITION UPON ORAL EXAMINATION OF  
REBECCA J. ROE

Thursday, December 13, 2012

Taken at 810 3rd Avenue, Suite 500  
Seattle, Washington

1:36 p.m.

EXHIBIT E

REPORTED BY: KAREN M. GRANT, CCR NO. 2155  
DIXIE CATTELL & ASSOCIATES  
COURT REPORTERS & VIDEOCONFERENCING  
(360) 352-2506 \* (800) 888-9714

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1 REBECCA J. ROE,  
2 witness herein, having been first duly sworn on oath,  
3 was examined and testified as follows:  
4

5 (Exhibits 1-3 pre-marked.)

6 EXAMINATION

7 BY MR. JOHNSON:

8 Q. Ma'am, could you please state and spell your  
9 name?

10 A. Rebecca, R-e-b-e-c-c-a, Jane, J-a-n-e, Roe,  
11 R-o-e.

12 MR. JOHNSON: Let the record reflect that  
13 this is the discovery deposition of Rebecca Roe taken  
14 pursuant to notice -- I'm sorry. Yes, taken pursuant to  
15 notice and continued to this time and date by agreement  
16 of the parties.

17 Q. (By Mr. Johnson) Ms. Roe, you've been deposed  
18 before; is that correct?

19 A. Yes.

20 Q. About how many occasions?

21 A. You know, I think I've probably been deposed  
22 about six times, maybe, five or six times.

23 Q. All right. And how many depositions have you  
24 taken? I bet it's going to be a higher number.

25 A. Oh, that's going to be a much higher number.

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1 Q. Okay. If King County had taken the case,  
2 would it have been filed in Clark County and prosecuted  
3 by King County, or would it have been filed in King  
4 County?

5 A. I think it would have been prosecuted -- filed  
6 in Clark County and prosecuted there because that's  
7 where there would have been jurisdiction.

8 Q. Okay. It says at the very top of Exhibit 1:  
9 "Case is being returned because it is legally  
10 insufficient"; do you see that?

11 A. Right.

12 Q. What does that mean?

13 A. That it is insufficient for filing charges.

14 Q. Does that mean there was a lack of probable  
15 cause for filing charges?

16 A. No. That means, in my opinion, it did not fit  
17 the -- it did not fit the filing standard that I was  
18 applying.

19 Q. What was the filing standard that you were  
20 applying?

21 A. Whether or not this would have likely resulted  
22 in a conviction.

23 Q. And how is that different from your definition  
24 of probable cause?

25 A. Because probable cause depends on -- it's a

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1 lower standard. Probable cause means: Is there,  
2 essentially, a probability that a person committed a  
3 crime. A criminal conviction, as you know, requires  
4 proof beyond a reasonable doubt.

5 Q. Okay. You note that it says, "Initial  
6 disclosure to Shirley and victim names three others as  
7 having abused her..." Do you see where I'm referring  
8 to?

9 A. Yes.

10 Q. Were you asked for an opinion as to whether  
11 these three others should be charged?

12 A. I don't recall that. I don't recall that I  
13 was.

14 Q. Okay. Would it be fair to say you were not,  
15 since there is no reference to that in your decline  
16 notice?

17 A. I think that's fair.

18 Q. And on the bottom of that page of Exhibit 1,  
19 if you read the lower left box, it says "Victim  
20 interview?" Do you see where I'm referring to?

21 A. Yeah.

22 Q. It's kind of cut off.

23 A. Yeah.

24 Q. Am I reading that right? It says "Victim  
25 interview?" --

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1 Q. Okay. Now, at the time you submitted this  
2 report, was it your opinion that, although the case was  
3 legally insufficient, there was probable cause to  
4 charge?

5 A. Yes.

6 Q. All right. Can you tell me what that was?

7 A. Well, as I indicated here, although I believe  
8 child was clearly abused, and I do believe she was, she  
9 voluntarily made statements to Shirley that -- and under  
10 circumstances that indicated reliability and a child who  
11 was -- had been abused and was engaging in highly  
12 sexualized behavior.

13 So I clearly believed, as I said here, she was  
14 abused, and, as I also wrote, probably by the defendant,  
15 and that was based on her statements to both Shirley,  
16 again, and also to Sharon Krause.

17 Q. Okay.

18 A. You know, she described abuse she was -- to  
19 people. The initial statements are often the most  
20 important, and they were made to somebody who did not  
21 have, as I understood it, motive to, you know, fabricate  
22 or suggest this testimony to the child. You know, so,  
23 yeah, I believe there was clearly probable cause.

24 Q. Okay. You just mentioned Shirley. Can you  
25 tell me what you knew about Shirley Spencer at that

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EXAMINATION

BY MS. FETTERLY:

Q. I just had one clarification. Is it your opinion, Ms. Roe, that the videotaped interview by James Peters was cumulative to the reports of Detective Krause, as far as the initial reluctance of Kathryn to disclose?

A. Yes.

MR. JOHNSON: Object to the form of the question.

MS. FETTERLY: That's all I have.

THE WITNESS: Do you have anything else, Mr. Johnson? Hello?

MR. JOHNSON: No. I guess, just signature would be explained. We have anything further.

MS. FETTERLY: Are you ordering, Mr. Johnson?

MR. JOHNSON: Yes, we are.

THE WITNESS: So I'm not waiving.

MR. JOHNSON: Okay.

THE WITNESS: Thanks.

(Off-the-record discussion.)

DEPOSITION CONCLUDED: 7:18 p.m.

(Signature was expressly reserved.)